

Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 ISO-00 CIAE-00 DODE-00 PM-05 H-01

INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02

SS-15 USIA-06 CAB-02 COME-00 DOTE-00 FAA-00 IO-13

DHA-05 /087 W

-----113951 301612Z /44

R 301357Z AUG 77

FM AMEMBASSY WARSAW

TO SECSTATE WASHDC 0076

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E.O. 11652: N/A

TAGS: EAIR PL

SUBJ: US-POLISH CONSULTATIONS ON CHARTER FLIGHTS

REF: A. WARSAW 5962; B. STATE 147991

1. SUMMARY: WE HAVE RECEIVED A COPY OF A GOP POLICY STATEMENT WHICH WILL BE PUBLISHED NEXT MONTH TO CLARIFY POLAND'S REGULATIONS ON CHARTER FLIGHTS. THE STATEMENT MAKES CLEAR THE POLISH POLICY OF TREATING CHARTERS AS "SUPPLEMENTARY FLIGHTS" WHICH SHOULD NOT JEOPARDIZE REGULARLY SCHEDULED LINES. WE BELIEVE THE GOP HAS MAINTAINED SUFFICIENT FLEXIBILITY, HOWEVER, TO ENABLE US TO WORK OUT SOLUTIONS TO OUR BILATERAL PROBLEMS IN THIS AREA. DIRECTOR OF CIVIL AVIATION MIECZYSLAW ROMAN HAS TOLD US HE WOULD LIKE TO MEET WITH US BEFORE HIS DEPARTURE FOR THE SEPTEMBER 26-28 CONSULTATIONS IN WASHINGTON. END SUMMARY.

2. WE HAVE RECEIVED A COPY OF A POLICY STATEMENT SIGNED BY DIRECTOR OF CIVIL AVIATION MIECZYSLAW ROMAN ON AUGUST 18, 1977, WHICH CLARIFIED GOP REGULATIONS ON CHARTER FLIGHTS. THE STATEMENT WILL BE PUBLISHED IN THE OFFICIAL GAZETTE OF THE MINISTRY OF TRANSPORTATION IN SEPTEMBER, AND COPIES HAVE BEEN GIVEN TO REPRESENTATIVES OF PAN AMERICAN AND OTHER FOREIGN AIRLINES WITH LIMITED OFFICIAL USE

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OFFICES IN WARSAW. THE SALIENT POINTS OF THE STATEMENT ARE GIVEN BELOW, AND AN ENGLISH TRANSLATION OF THE COMPLETE TEXT WILL BE SENT TO THE DEPARTMENT SHORTLY.

A. KEEPING IN MIND THE NEED TO DEVELOP CHARTER FLIGHTS "AS SUPPLEMENTS TO FLIGHTS ON REGULARLY SCHEDULED LINES," AS WELL AS THE NEED TO MAINTAIN A PROPER LEVEL OF SERVICE AT POLISH AIRPORTS,

THE CENTRAL CIVIL AVIATION ADMINISTRATION (CCAA) WILL OBSERVE CLOSELY THE REGULATIONS OF THE MINISTRY OF TRANSPORTATION PUBLISHED ON NOVEMBER 7, 1975. APPROVAL FOR CHARTER FLIGHTS MAY BE GIVEN IF:

1. THE CARRIAGE CANNOT BE EFFECTED ON REGULARLY SCHEDULED LINES SERVING POLAND AND THE COUNTRY IN QUESTION;
2. THE GOVERNMENT OF THE COUNTRY IN QUESTION ACCORDS POLISH CARRIERS EQUAL TREATMENT ON CHARTER FLIGHTS;
3. TARIFFS ARE IN ACCORD WITH INTERNATIONAL RATES OR, IN THE ABSENCE OF SUCH RATES, ARE BASED ON ECONOMIC CRITERIA;
4. POLISH AIRPORTS ARE IN A POSITION TO ASSURE PROPER SERVICE FOR AIRCRAFT, PASSENGERS AND BAGGAGE;
5. APPROVAL WOULD NOT BE AGAINST THE PUBLIC INTEREST.

B. PERMISSION FOR CHARTER FLIGHTS WILL NOT BE GIVEN IF CARRIERS SERVING REGULAR LINES OFFER SUFFICIENT CAPACITY, AT REASONABLE PRICES, TO COVER SUCH TRAFFIC. THIS SAME PRINCIPLE WOULD APPLY TO FLIGHTS FROM POINTS PROXIMATE TO THOSE SERVED BY REGULAR LINES. EXCEPTIONS TO THIS PRINCIPLE MAY BE MADE, PARTICULARLY FOR AD HOC CHARTERS, I.E., FOR AIRCRAFT LEASED FOR PERSONAL USE, FOR GROUPS OF "COMMON INTEREST," GROUPS TIED TO SPECIAL PERFORMANCES OR LIMITED OFFICIAL USE

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EVENTS, AND FOR CHARTER SALES SOLD TOGETHER WITH GROUND TRANSPORTATION. (COMMENT: ALTHOUGH THE DEFINITION OF GROUPS OF "COMMON INTEREST" WOULD PROBABLY BE SOMEWHAT MORE RESTRICTIVE THAN PAST PRACTICE OF THE GOP, THE FACT THAT MOST TOURISTS VISITING POLAND ARE OF POLISH ORIGIN AND OFTEN FLY WITH "AFFINITY GROUPS" SHOULD ALLOW MOST TRAVELERS TO QUALIFY FOR CHARTERS. END COMMENT)

C. "RECIPROCITY" WILL BE INTERPRETED TO MEAN THE ESTABLISHMENT BY FOREIGN GOVERNMENTS OF METHODS PERMITTING POLISH LINES TO CARRY HALF OF THE CHARTER TRAFFIC BETWEEN THE TWO COUNTRIES.

D. THE CCAA WILL TAKE INTO CONSIDERATION AGREEMENTS AMONG POLISH CARRIERS AND INTERESTED FOREIGN CARRIERS IN MAKING ITS DECISIONS ON CHARTER APPLICATIONS. IF FOREIGN GOVERNMENTS MAKE THEIR APPROVAL OF CHARTER FLIGHTS DEPENDENT ON CONCLUSION OF SUCH UNDERSTANDINGS, OR IF THEY DENY TO POLISH CARRIERS PRIVILEGES ACCORDED CARRIERS OF THIRD COUNTRIES, THEN THE CCAA MAY APPLY SIMILAR AND EQUIVALENT RESTRICTIONS AND CONDITIONS.

E. PERMISSION FOR CHARTER FLIGHTS WILL BE GRANTED ONLY FOR 3RD AND 4TH FREEDOM PASSENGERS. CHARTER APPLICATIONS FOR CARRYING TRAFFIC ORIGINATING IN COUNTRIES OTHER THAN THE HOME COUNTRY OF

THE CARRIER WILL NOT BE CONSIDERED.

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F. IN THE ABSENCE OF AGREEMENT AMONG CARRIERS ON CHARTER PRICES, THE CCAA MAY ESTABLISH MINIMUM AND MAXIMUM TARIFFS TO ASSURE THEIR PROPER RELATION TO TARIFFS ON REGULAR LINES AND TO ASSURE COMPETITION AND PROFITABILITY OF CARRIERS OF BOTH COUNTRIES ON THESE LINES.

G. DUE TO CURRENT LIMITATIONS ON AIRPORT FACILITIES APPROVAL WILL NOT BE GIVEN FOR CHARTER FLIGHTS WITH CAPACITIES OF GREATER THAN 200 PASSENGERS. EXCEPTIONS TO THIS PRINCIPLE WILL BE GRANTED IF THE FLIGHTS DO NOT INTERFERE WITH THE NORMAL OPERATION OF AIRPORT FACILITIES AND IF THE CARRIER IN QUESTION AGREES TO COVER ADDITIONAL COSTS INCURRED FOR AIRPORT AND CUSTOMS SERVICES. PRIORITY WILL BE GIVEN TO CHARTERS WHICH DO NOT REQUIRE RESOURCES BEYOND THE NORMAL ACTIVITIES OF THE AIRPORT. (COMMENT: THIS EXCEPTION WOULD PRESERVE THE ARRANGEMENT WORKED OUT FOR WORLD AIRWAYS. END COMMENT)

H. APPLICATIONS FOR A SERIES OF CHARTER FLIGHTS MUST BE SUBMITTED BY NOVEMBER 30 IF THE FLIGHTS ARE TO TAKE PLACE BETWEEN MAY 1 AND OCTOBER 31, AND BY AUGUST 31 FOR FLIGHTS BETWEEN NOVEMBER 1 AND APRIL 30.

I. ANY CHANGES IN SCHEDULES OF APPROVED CHARTER FLIGHTS WILL
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REQUIRE ADDITIONAL APPROVAL OF THE CCAA IN ORDER TO ASSURE PROPER AIRPORT SERVICES.

J. COMPLETE CHARTER FLIGHT REGULATIONS ARE PUBLISHED IN THE AIP FOR POLAND (COPIES OF WHICH WERE SENT TO THE DEPARTMENT AND CAB ON OCTOBER 18, 1976.)

3. THE WARSAW MANAGER OF PAN AM HAS ALSO TOLD US THAT, DURING A RECENT MEETING OF OFFICIALS OF LOT, ORBIS, AND A LARGE U.S. TRAVEL AGENCY, LOT OFFICIALS LAID OUT NEW GUIDELINES FOR CHARTER FLIGHTS TO POLAND IN 1978. THEY REPORTEDLY SAID THAT APPROVAL WOULD BE DENIED FOR CHARTERS ORIGINATING IN NEW YORK, BUFFALO, PHILADELPHIA, BOSTON OR BALTIMORE, SINCE THEY WOULD COMPETE WITH REGULARLY SCHEDULED FLIGHTS. THE LOT OFFICIALS ALSO OUTLINED PROPOSALS WHICH LOT WOULD MAKE TO THE CAB FOR LOWERING PRICES ON REGULARLY SCHEDULED FLIGHTS TO COMPETE BETTER WITH PRICES OFFERED ON CHARTERS. UNDER THIS APPROACH, TOUR ORGANIZERS WOULD BE ALLOWED TO RESERVE SPACE ON REGULAR FLIGHTS AT THESE LOW PRICES; THEY COULD THENSELL THESE SEATS TO PARTICIPANTS IN TOURS OR OTHER GROUPS. LOT OFFICIALS REPORTEDLY SAID THEY EXPECTED PAN AM TO BEGIN FLYING 747S TO WARSAW ON ITS REGULAR FLIGHTS AND THAT WORLD AIRWAYS WOULD BE FLYING LARGE-CAPACITY CHARTERS TO POLAND.

4. COMMENT: ALTHOUGH THE PHILOSOPHY OF THE GOP ON CHARTER FLIGHTS IS DIRECTLY CONTRARY TO OURS, WE BELIEVE GOP NEGOTIATORS WILL TAKE A PRAGMATIC APPROACH AND TRY TO WORK OUT AN ACCOMMODATION IN WASHINGTON. GOP OFFICIALS ARE AWARE OF THEIR COMMITMENT DURING LAST YEAR'S NEGOTIATIONS TO THESE NON-SCHEDULED AND SCHEDULED CARRIERS EQUALLY. THEY ARE CONCERNED, HOWEVER, BY THE THREAT WHICH RAPID INCREASES IN CHARTER FLIGHTS COULD POST TO LOT'S ABILITY TO GENERATE SUFFICIENT INCOME ON ITS REGULAR FLIGHTS. WE RECALL THAT THE POTENTIAL FOR LOT TO ATTRACT LIMITED OFFICIAL USE

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TRANSATLANTIC PASSENGERS TRAVELLING ON THIRD-COUNTRY CARRIERS WAS A KEY PREMISE BEHIND LOT'S EXPANDED SERVICE TO NEW YORK. THE POLES NOW SEE INCREASED CHARTER FLIGHTS, COMBINED WITH WHAT THEY CONSIDER CUT-THROAT COMPETITION ON THE NEW YORK-LONDON RUN, AS THREATENING THE STRUCTURE OF OUR BILATERAL AIR TRANSPORT AGREEMENT.

5. THIS DOES NOT MEAN, HOWEVER, THAT THE GOP WILL INSIST ON CLAMPING DOWN RIGIDLY ON CHARTER FLIGHTS. THEY WILL WANT SOME MECHANISM TO ASSURE THAT THEIR ABILITY TO GENERATE REVENUE TO MEET THE \$4.5 MILLION IN SALES GUARANTEED TO PAN AM IS NOT JEOPARDIZED. THE NEW TARIFFS FOR WHICH LOT WILL APPARENTLY REQUEST CAB APPROVAL SEEM TO BE AN IMPORTANT ELEMENT IN THE GOP

STRATEGY. TO THE EXTENT THE POLES BELIEVE THAT THEIR REGULARLY SCHEDULED FLIGHTS CAN COMPETE FOR WOULD-BE CHARTER PASSENGERS, THEY SHOULD BE LESS INSISTENT ON CHARTER-FLIGHT RESTRICTIONS.

6. WHEN WE MEET WITH DIRECTOR ROMAN WE WILL, OF COURSE, STRESS THAT ANY UNDERSTANDING ON CHARTERS MUST BE NON-DISCRIMINATORY AMONG NON-SCHEDULED AND SCHEDULED CARRIERS. THE GOP NEEDS TO SHOW HOW ITS NEW APPROACH ON CHARTERS IS CONSISTENT WITH THE PRINCIPLE OF NON-DISCRIMINATION TO WHICH IT AGREED DURING OUR NEGOTIATIONS OF JUNE 1976. END COMMENT.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW, POLICIES, SUPPLEMENTAL AIRLINES
Control Number: n/a
Copy: SINGLE
Sent Date: 30-Aug-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977WARSAW06152
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770313-0516
Format: TEL
From: WARSAW
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t1977086/aaaaaenk.tel
Line Count: 235
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 1412635a-c288-dd11-92da-001cc4696bcc
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 WARSAW 5962, 77 STATE 147991
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 04-Mar-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1595358
Secure: OPEN
Status: NATIVE
Subject: US-POLISH CONSULTATIONS ON CHARTER FLIGHTS
TAGS: EAIR, PL
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/1412635a-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009